

## REMARKS

Claims 1-22 are currently pending in the application. The status of the claims based on this reply is as follows:

claims 1, 11, 12, 19, and 21 have been amended;  
no claims have been canceled;  
claims 23-25 have been added; and  
claims 4 and 5 have been withdrawn.

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The Office has issued a requirement for information under 37 CFR §1.105. More specifically, the Office is requiring information pursuant to 37 CFR §§1.105 (a)(1)(iii), (iv), (v), (vi), and (vii) and factual knowledge pursuant to 37 CFR §1.105(a)(3)(ii).

### **37 CFR 1.105(a)(1).**

(1) With respect to the requirement for information pursuant to 37 CFR §1.105(a)(1)(iii), attached are copies of US 2004/0015391 A1, US 2007/0244762 A1, and US 2008/0313089 A1, each of which identifies at least one inventor that is also identified in the present application.

United States Pat. Appl. Publ. No. US 2004/0015391 A1 relates to U.S. Pat. Appl. No. 10/362,833, which is the U.S. national phase application of PCT Appl. No. PCT/AU01/01110. Patent Cooperation Treaty Appl. No. PCT/AU01/01110 was published as WO 02/21347. The published application is discussed in the Background portion of the current application. Further, the published application was disclosed to the Office in the Supplemental Information Disclosure Statement filed on February 14, 2007.

The disclosure of these documents is not to be construed as an admission that any of the documents, alone or in any combination, is considered to be material to patentability as defined in 37 CFR §1.56(b). Moreover, the disclosure of these documents is not to be construed as an admission that any of the documents are prior art as to the above-identified application.

(2) With respect to the requirement for information pursuant to 37 CFR §1.105(a)(1)(iv), WO 02/21347 is identified and discussed in the Background portion of the present application.

(3) With respect to the requirement for information pursuant to 37 CFR §1.105(a)(1)(v), the last paragraph of the Background portion of the application substantially identifies the

problem addressed by the invention. The problem is not believed to have been previously addressed.

(4) With respect to the requirement for information pursuant to 37 CFR §1.105(a)(1)(vi), the claimed invention is an improvement in online auctions and particularly addresses the situation identified in the last paragraph of the Background section of the application.

(5) With respect to the requirement for information pursuant to 37 CFR §1.105(a)(1)(vii), the only known use/uses of the claimed invention has/have been by the assignee or a licensee of the assignee subsequent to the filing of the PCT/AU01/01110. In that regard, BOMweb Pty. Ltd. is a licensee that is believed to have initially used the invention in 2006. The examiner is referred to <http://www.bomweb.com.au/company.asp> and the Forest Auctions Site and allocation auctions links set forth on that page.

**37 CFR 1.105(a)(3).**

(1) With respect to the interrogatory 1, to the applicant/assignee's knowledge and belief, the noted formulas were derived solely from the applicant's own work and not the work of any others.

(2) With respect to the interrogatory 2, to the applicant/assignee's knowledge and belief, the noted formulas were derived solely from the applicant's own work and not the work of any others.

(3) With respect to the interrogatory 3, to the applicant/assignee's knowledge and belief, there are no similar products and services embodying the disclosed subject matter of the invention.

(4) With respect to the interrogatory 4, the applicant/assignee has not searched any databases with regard to the claimed invention.

(5) With respect to the interrogatory 5, the applicant/assignee has not searched any databases with regard to the claimed invention. As such, the applicant/assignee cannot provide any search terms, keywords, or search strings.

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Claims 1-3 and 6-10 have been rejected under 35 U.S.C. §101 as being directed to non-statutory subject matter. Independent claim 1 has been amended in a manner that is believed to address the rejection.

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Claims 11-18 have been rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention. Claim 11 has been amended in a manner that is believed to address the rejection.

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Claim 12 has been rejected under 35 U.S.C. §112, second paragraph, for having a limitation with an insufficient antecedent basis. Claim 12 has been amended in a manner that is believed to address the rejection.

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Claim 21 has been rejected under 35 U.S.C. §112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention. Claim 21 has been amended in a manner that is believed to address the rejection.

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Claims 1 and 6-22 have been rejected under 35 U.S.C. §102(e) as being anticipated by Feaver (US 2007/0208656).

**Claim 1.** Independent claim 1 is directed to a method for conducting an online auction that comprises a number of steps that each utilizes an administrator computer that is part of a computer network. The steps comprise: (a) setting a reserve price for the auction; (b) conducting the online auction between at least two competing parties; (c) determining whether a predetermined time trigger has been reached; (d) if the reserve price has not been reach when the predetermined time trigger has been reached, determining whether the controlling party has selected to enter a reserve price negotiation phase and, if so, revising the reserve price for the reserve price negotiation phase; and (e) extending the online auction into a reserve price negotiation phase. The reserve price negotiation phase is a phase that maintains the process/rules under which the participants previously submitted their bids while allowing the controlling party to revise the reserve price. The ability to preserve the process/rules is particularly important in situations in which the process/rules are complex, which is not uncommon in situations involving high value products or services. As such, the reserve price negotiation phase preserves the

transparency and integrity of the process and thereby encourages the participants to continue to participate in the auction and future auctions. See, e.g., paragraphs [0013] and [0137].

The Office takes the position that the Feaver reference discloses determining whether a controlling party has selected to enter a reserve price negotiation phase, and revising the reserve price for that reserve price negotiation phase. Paragraph [0325]. The Feaver reference does not disclose a reserve price negotiation phase. The noted passage of the Feaver reference indicates that, if the market does not clear, the seller has the choice of beginning the process over again or beginning negotiations directly with one or more of the potential buyers. The beginning of the process over again is disclosed in the Background of the present application (paragraph [0012]) and is not a reserve price negotiation phase. There is no teaching or suggestion in Feaver that beginning the process over again preserves the process/rules of the online auction – thereby encouraging the participants to continue with the bidding process. The option of negotiating directly with one or more of the potential buyers is the kind of situation that the present invention seeks to avoid. See paragraph [0013]. As such, the direct negotiation scenario disclosed in Feaver does not teach or suggest a reserve price negotiation phase. Consequently, Feaver does not teach or suggest determining whether the controlling party has selected to enter a reserve price negotiation phase. Since Feaver does not teach or suggest a reserve negotiation phase, Feaver also does not teach or suggest the revising of the reserve price for a reserve price negotiation phase or the extending of the online auction into a reserve price negotiation phase. Feaver also does not teach or suggest the noted determining, revising, and extending steps in combination with any of the other steps of the claim. Based on the foregoing, it is respectfully submitted that independent claim 1 is in condition for allowance and such allowance is earnestly solicited.

**Claim 19.** Independent claim 19 is directed to a system for conducting an online auction between a controlling party and at least two competing participants. While claim 19 is directed to a system and not a method, claim 19 is allowable for substantially the same reasons as noted with respect to independent claim 1. As such, the allowance of claim 19 is also earnestly solicited.

Each of claims 6-18 and 20-22 is a dependent claim that depends either directly or indirectly from one of independent claims 1 and 19. Consequently, each of these dependent claims is at least allowable for the reasons noted with respect to the independent claim from

which it depends. However, each of these dependent claims may be allowable for additional reasons, and the applicant reserves the right to assert any such reason in the future.

Claims 2-3 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Feaver in view of Hadingham (US 7,373,325).

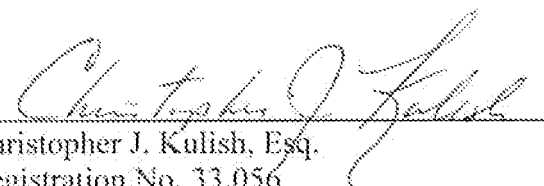
Each of claims 2-3 is a dependent claim that depends either directly or indirectly from independent claim 1. Consequently, each of these dependent claims is at least allowable for the reasons noted with respect to independent claim 1. However, each of these dependent claims may be allowable for additional reasons, and the applicant reserves the right to assert any such reason in the future.

Claim related fees in the amount of \$78 are believed to be due with this response. In the event the payment of such fees does not accompany this response, please debit Deposit Account 50-4902.

In the event that a petition for extension of time under 37 CFR §1.136(a) is required to have this reply considered and such a petition does not otherwise accompany this reply, please consider this a petition for an extension of time for the required number of months and authorization to debit Deposit Account 50-4902 for the required fee.

The application now appearing to be in form for allowance, reconsideration and allowance thereof is respectfully requested. If a telephone conversation will further the prosecution and/or expedite allowance, the examiner is invited to contact the undersigned attorney.

Respectfully submitted,

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